

Fitness Choreography and Copyright

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Sixty-five years ago, Hanya Holm secured the first copyright for choreography when she submitted her choreography for the musical *Kiss Me Kate*, which she registered as a drama. Prior to then, copyright protection was only granted for choreography if it told a story. What made Holm’s submission special was that it was submitted as Labanotation, a written dance notation system that records precise movement using abstract symbols (See **Copyright Notices**, February 2015.)

Choreography copyright protection was included in the Copyright Act of 1978, and Holm is on record as a contributor to the revised law. She was invited to comment on Copyright Law Revision Study number 28, **Copyright in Choreographic Works**, written by attorney-advisor Borge Varmer and prepared for the Subcommittee on Patents, Trademarks, and Copyrights. Her letter, dated January 2, 1960, makes three points: choreography should be subject to copyright; choreography should be named as a separate category of copyrightable matter; and the term “choreographic works” should include dramatic concert pieces, lyric-dramatic concert pieces, satirical concert pieces, and dance in operas, musical comedies, and revues. She concluded, “I realize that the issue is of greatest importance, and I hope that a protective law can be worked out.”

While Holm’s determination helped lead to copyright protection for choreography, not all choreography

qualifies. Fitness choreography cannot be copyrighted. According to the *Compendium of U.S. Copyright Office Practices*, **chapter 800**, section 805.5 (B) (3), “‘Functional physical movements’ and ‘ordinary motor activities’—in and of themselves—do not represent the type of authorship that Congress intended to protect as choreography.” It goes on to say, “A work may be precluded from registration as a functional system or process if the particular movements and the order in which they are performed purportedly improve one’s health or physical or mental condition. . . . Examples of functional physical movements that cannot be registered with the Office include exercise routines, aerobic dances, yoga positions, and the like.” The law was cited in the multiple suits Bikram Yoga creator Bikram Choudhury filed and lost, claiming he had copyright protection for his poses and sequences. ©



Fé Alf, dancer at the Wigman School, which Hanya Holm launched in New York in 1931.

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Bonnie Prudden leads a class in exercises at her White Plains school.

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